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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,778	12/03/2003	Rudy A. Vandebelt	HW-130	6138

37275 7590 04/06/2005

LAW OFFICE OF A.P. DURIGON
20 EUSTIS STREET
CAMBRIDGE, MA 02140

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,778

Applicant(s)

VANDENBELT ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,7,9,11,12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) 1,4,6,7 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9, 11, 12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election with traverse of Group II, claims 9, 11, 12, 14 and 15, in the reply filed on January 17, 2005 is acknowledged. The traversal is on the grounds that the inventions of the three groups are not independent and distinct, but merely differ in scope. This is not found persuasive because the claims in each group recite structural elements which are not present in the other groups; and therefore, each of these groups is deemed to be independent and distinct from the others. For example, Group I does not require the "filter housing wider than it is long" (claim 9, line 4) and the "means for retaining ..." (claim 9, lines 16-19) of Group II, nor the "third passageway" (claim 16, lines 9-11 and 15-17) of Group III; the filter cartridge of Group II does not require the "lid member having a slotted dome" (claim 1, line 18) and "means for externally mounting a filter to the dome" (claim 1, line 21) of Group I, nor the "third passageway" (claim 16, lines 9-11 and 15-17) of Group III; and the filter cartridge of Group III does not require the "lid member having a slotted dome" (claim 1, line 18) and "means for externally mounting a filter to the dome" (claim 1, line 21) of Group I, nor the "filter housing wider than it is long" (claim 9, line 4) and the "means for retaining ..." (claim 9, lines 16-19) of Group II. The requirement is still deemed proper and is therefore made FINAL. Claims 1, 4, 6, 7 and 16 are withdrawn from further consideration, as being directed to non-elected inventions.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The recitation that the spillover wall (i.e. element 60) is "tilted upwardly" when "the pitcher is tilted downwardly" (claim 15, line 7) is deemed to be misdescriptive, since it

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appears that this wall will become tilted downwardly from its original upstanding vertical position when the pitcher is tilted downwardly.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 14 are again rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3535679 A1 in view of Heinz (U.S. Patent No. 146,590). As pointed out in an earlier Office action, DE 3535679 A1 discloses the claimed invention with the exception of the recited shape of the filter housing. Heinz shows a water filter cartridge having a housing which is wider than it is long; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the filter housing of the primary reference in the shape suggested by Heinz, in order to produce a more compact filter cartridge in this primary reference system. Applicant should note that since the reservoir and filter cartridge of the reference device are not connected to the pitcher in this device, water will be retained in the first and second flow passages of this filter cartridge when the pitcher is downwardly tilted to pour water, as now recited in amended claim 9.

Claims 11 and 12 are again rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3535679 A1 and Heinz as applied above, and further in view of Kahana (U.S. Patent No. 5,637,214). The modified primary reference discloses the claimed invention with the exception of the recited alignment member (claim 11), and the type of filter media employed (claim 12). Kahana discloses utilizing an alignment member in order to properly position the filter cartridge

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in a pitcher-type water purifier; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filter cartridge of the modified primary reference with the alignment member of Kahana, in order to permit use of this modified primary reference filter cartridge in a pitcher-type water purifier. Kahana also discloses purifying drinking water with a mixture of ion exchange resin and activated carbon (see col. 3, lines 46-48); and it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the treatment material disclosed by Kahana for the treatment material of the modified primary reference, since this mixture of ion exchange resin and activated carbon is capable of purifying drinking water in substantially the same manner as the treatment material of the modified primary reference, to produce substantially the same results.

Claim 15 has not been rejected over “art” because the references of record do not teach or fairly suggest a filter cartridge with a spillover wall which becomes tilted upwardly when a pitcher is tilted downwardly.

Applicant’s arguments filed August 23, 2004 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues, with respect to claim 9, that there is no teaching or suggestion in the references of record of means for retaining the water in the first and second flow passages of the filter housing so that water does not spill out of the filter housing when the pitcher-type device is downwardly tilted to pour treated water out of the pitcher. Applicant should note, however, that since the reservoir and filter cartridge of the reference device are not connected to the pitcher in this device, water will be retained in the first and second flow passages of this filter cartridge when the pitcher is downwardly tilted to pour water, as now recited in amended claim 9.

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Applicant apparently feels that claims 11, 12, 14 and 15 should stand or fall with parent claim 9, since no arguments have been presented as to why the additional limitations contained in these dependent claims are sufficient to distinguish them over the references of record (see page 12, lines 2-3, of the response filed August 23, 2004). In any event, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filter cartridge of the modified primary reference with the alignment member of Kahana, as required by claim 11, in order to permit use of this modified primary reference filter cartridge in a pitcher-type water purifier; and to substitute the mixture of ion exchange resin and activated carbon treatment material disclosed by Kahana for the treatment material of the modified primary reference, as required by claim 12, for the reasons given above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The

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examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at (571) 272-1166.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
April 4, 2005